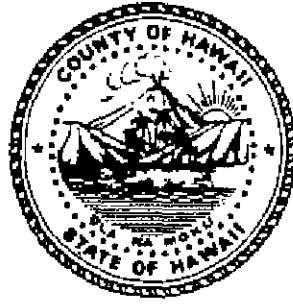


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 09 89^A BILL NO. 87A

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO INDUSTRIAL-COMMERCIAL MIXED – 20,000 SQUARE FEET (MCX-20) AT WAIĀKEA HOUSELOTS, WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-035:001 AND 103.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Section 25-8-33, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Waiākea Houselots, Waiākea, South Hilo, Hawai'i, shall be Industrial-Commercial Mixed – 20,000 square feet (MCX-20):

BEGINNING AT A PIPE AT A CERTAIN LOCATION OF THIS PARCEL OF LAND BEING ON THE NORTH SIDE OF KEKŪANAŌ'A STREET. THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "HĀLA'I" BEING 1,763.00 FEET SOUTH AND 10,250.00 FEET EAST, AND RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:

- | | | | |
|----|----------|--------|-----------------------------------------------------------|
| 1. | 90° 00' | 109.00 | FEET ALONG THE NORTH SIDE OF KEKŪANAŌ'A STREET TO A PIPE; |
| 2. | 180° 00' | 4.00 | FEET TO A PIPE; |
| 3. | 90° 00' | 20.00 | FEET TO A PIPE; |
| 4. | 180° 00' | 96.00 | FEET ALONG THE EAST SIDE OF LAUKAPU STREET TO A PIPE; |

5. 270° 00' 229.00 FEET ALONG LOT 13, BLOCK 22, WAIĀKEA HOUSELOTS, FIRST SERIES, TO A PIPE;
6. 360° 00' 100.00 FEET ALONG LOT 16, BLOCK 22, WAIĀKEA HOUSELOTS, FIRST SERIES, TO A PIPE ON THE NORTH SIDE OF KEKŪANAŌ‘A STREET;
7. 90° 00' 100.00 FEET ALONG THE NORTH SIDE OF KEKŪANAŌ‘A STREET TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 22,820 SQUARE FEET, MORE OR LESS.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. In accordance with Section 25-2-44, Hawai‘i County Code 1983 (2005 Edition), the County Council finds the following conditions are:

Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

- (1) Reasonably conceived to fulfill needs directly emanating from the land use proposed with respect to:
 - (A) Protection of the public from the potentially deleterious effects of the proposed use, or
 - (B) Fulfillment of the need for public service demands created by the proposed use.
- A. The applicant(s), its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within 180 days from the effective date of this ordinance.

- C. The applicants shall install a reduced pressure type backflow prevention assembly within five (5) feet of the water meter on private property, which must be inspected and approved by the Department of Water Supply.

- D. Construction of the proposed development, including the improvements listed in Condition G, shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicants, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements), Chapter 25 (Zoning Code), Hawai'i County Code.

- E. Access(es) to the project site shall be limited to right-turn in, right-turn out movements at Kekūanāo'a Street and full movements at Laukapu Street and shall meet with the approval of the Department of Public Works. Should there be future road improvements at Kekūanāo'a Street, such as a dedicated turn lane fronting the subject site that can reasonably and safely accommodate left turn movements, left turn movements may be permitted by the Department of Public Works. All driveway connections to Kekūanāo'a Street and Laukapu Street shall conform to Chapter 22 (County Streets) of the Hawai'i County Code.

- F. A five-foot wide future road widening strip along the Laukapu Street frontage and a 10-foot future road widening strip along the Kekūanāo‘a Street frontage shall be subdivided and dedicated to the County within five (5) years from the effective date of this ordinance.
- G. The applicants shall provide improvements to the project’s frontage along Kekūanāo‘a Street and Laukapu Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements and any required utility relocation, meeting the approval of the Department of Public Works. The improvements shall be located within the future road widening setback.
- H. The applicants shall provide a minimum 20-foot corner radius at the intersection of Kekūanāo‘a Street and Laukapu Street incorporating the future road widening setbacks.
- I. Streetlights and traffic control devices, as may be required by the Traffic Division, Department of Public Works, shall be installed.
- J. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. If required, a drainage study shall be prepared and submitted to the Department of Public Works prior to the issuance of Final Plan Approval. Any drainage improvements, if required, shall be constructed, meeting the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
- K. The project shall connect to the existing County sewerline prior to the issuance of a Certificate of Occupancy.

- L. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Plan Approval.
- M. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources - State Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- N. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- O. The applicants shall comply with all County, State and Federal laws, rules, regulations and requirements.
- P. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:
 - 1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence.
 - 2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.

3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
5. If the applicant(s) should require an additional extension of time, the Planning Department shall submit the applicants' request to the County Council for appropriate action.

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the area to its original or more appropriate designation.

SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

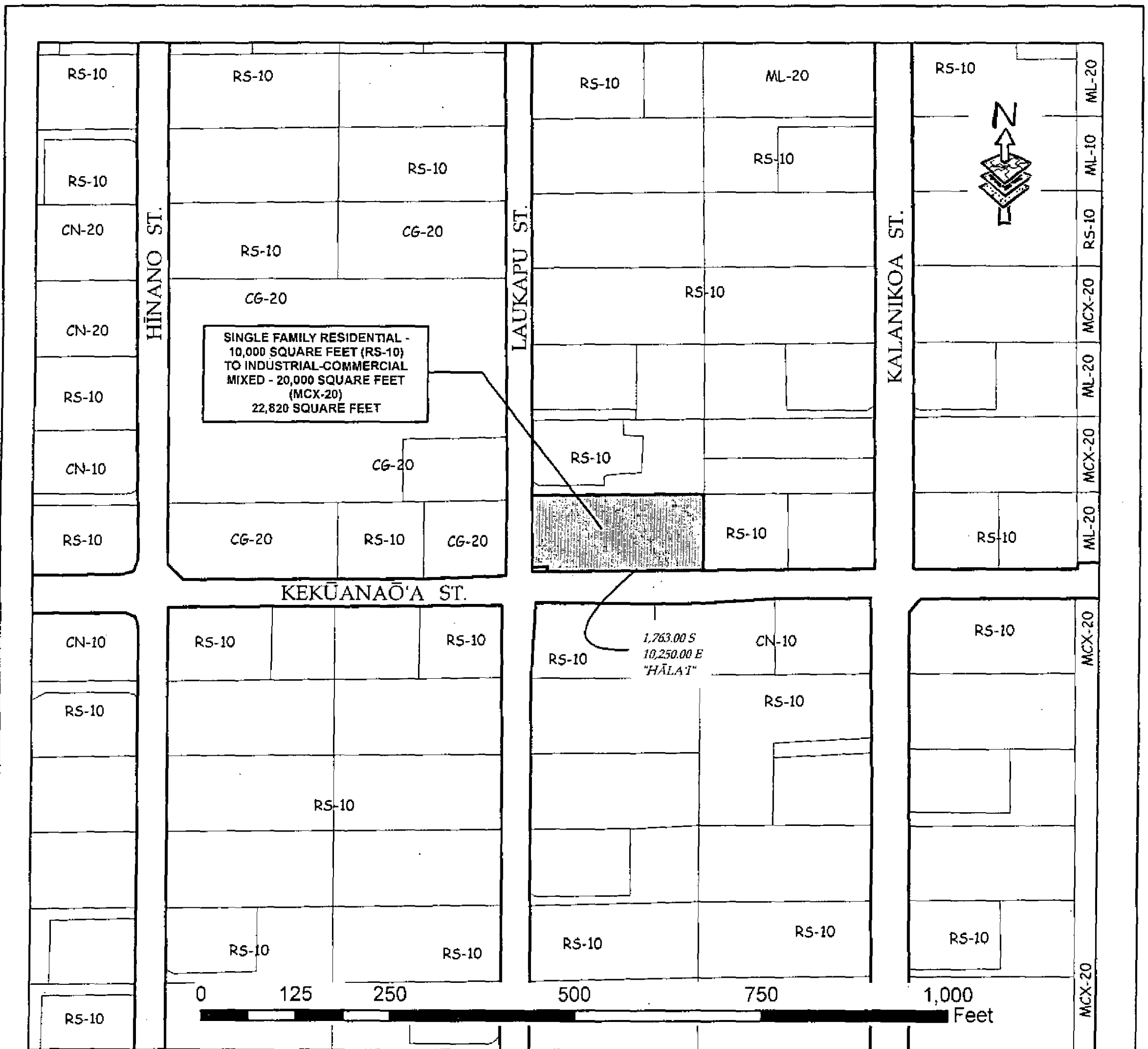


COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i

Date of Introduction: August 5, 2009
Date of 1st Reading: August 5, 2009
Date of 2nd Reading: August 19, 2009
Effective Date: September 2, 2009

REFERENCE: Comm: 362



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP) ARTICLE 8,
 CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION),
 BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY
 RESIDENTIAL - 10,000 SQUARE FEET (RS-10) TO INDUSTRIAL - COMMERCIAL
 MIXED - 20,000 SQUARE FEET (MCX-20)
 AT WAIĀKEA HOUSELOTS, WAIĀKEA, SOUTH HILO, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Kona, Hawai'i

Introduced By: Donald Ikeda
Date Introduced: August 5, 2009
First Reading: August 5, 2009
Published: N/A

REMARKS: A re-vote for first and second reading was taken due to lawsuit (W. Hawaii v County of Hawai'i) re the Council mtg. held on 6-16-09. A copy of the original certification sheet re this measure is attached.

Second Reading: August 19, 2009
To Mayor: August 28, 2009
Returned: September 3, 2009
Effective: September 2, 2009
Published: September 16, 2009

REMARKS: _____


2009 SEP 2009
ROLL CALL VOTE



	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann	X			
Ikeda	X			
Naeole	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
	9	0	0	0

ROLL CALL VOTE

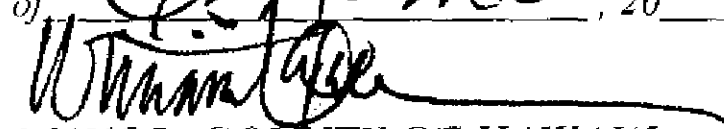
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann	X			
Ikeda	X			
Naeole	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
	9	0	0	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII
Date AUG 31 2009


COUNCIL CHAIRPERSON

COUNTY CLERK

Bill No.: 87A
Reference: C-362/PC-32
Ord No.: 09 89A

Approved/Disapproved this 2nd day
of September, 2009

MAYOR, COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
 County of Hawai'i
 Hilo, Hawai'i

Introduced By: Donald Ikeda
 Date Introduced: June 16, 2009
 First Reading: June 16, 2009
 Published: N/A

REMARKS:

Second Reading: July 8, 2009
 To Mayor: July 16, 2009
 Returned: July 22, 2009
 Effective: July 22, 2009
 Published: July 30, 2009

REMARKS:

2009 JUL 22 PM 12 52

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell			X	
Hoffmann	X			
Ikeda	X			
Naeole	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann	X			
Ikeda	X			
Naeole	X			
Onishi	X			
Yagong			X	
Yoshimoto	X			
	8	0	1	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
 FORM AND LEGALITY:


 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date JUL 21 2009



COUNCIL CHAIRPERSON

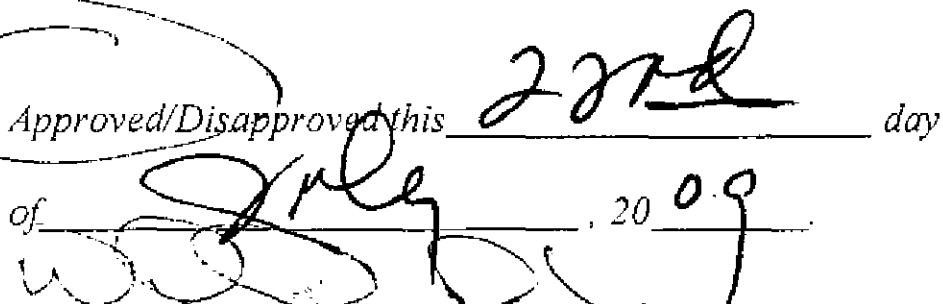


COUNTY CLERK

Bill No.: 87

Reference: C-362/PC-32

Ord No.: 09 89

Approved/Disapproved this 22nd day
 of July, 2009

 MAYOR, COUNTY OF HAWAII

Ordinances Numbered 09-89A, 09-90A, 09-91A, 09-92A, & 09-93A

I hereby certify that the following Ordinances passed second and final reading at the meeting of the County Council on August 19, 2009, by vote, as listed below:

Ordinance 09-89A (Bill 87A): An Ordinance Amending Section 25-8-33 (City of Hilo Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification From Single Family Residential – 10,000 Square Feet (RS-10) to Industrial-Commercial Mixed – 20,000 Square Feet (MCX-20) at Waiākea Houselots, Waiākea, South Hilo, Hawai'i, Covered by Tax Map Key: 2-2-035:001 and 103. AYES: Council Members Enriquez, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 09-90A (Bill 88A): An Ordinance Amending Section 25-8-33 (City of Hilo Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification From Single Family Residential – 10,000 Square Feet (RS-10) to Industrial-Commercial Mixed – 20,000 Square Feet (MCX-20) at Waiākea Houselots, Waiākea, South Hilo, Hawai'i, Covered by Tax Map Key: 2-2-050:043. AYES: Council Members Enriquez, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 09-91A (Bill 89A): An Ordinance Amending Section 25-8-33 (City of Hilo Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification From Single Family Residential – 10,000 Square Feet (RS-10) to Industrial-Commercial Mixed – 20,000 Square Feet (MCX-20) at Waiākea Houselots, Waiākea, South Hilo, Hawai'i, Covered by Tax Map Key: 2-2-035:006. AYES: Council Members Enriquez, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 09-92A (Bill 92A): An Ordinance Amending Ordinance No. 08-106 of the County of Hawai'i, Pertaining to the Issuance of General Obligation Bonds for the Purpose of Financing Various Public Improvements Described Therein. AYES: Council Members Enriquez, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 09-93A (Bill 97A): An Ordinance to Amend Ordinance No. 09-64, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2010. AYES: Council Members Enriquez, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.



Kenneth G. Goodenow
County Clerk

(Hawai'i Tribune-Herald - September 16, 2009)
(West Hawai'i Today - September 16, 2009)

Note: The original Digest/Affidavit is attached to Ordinance 09-89A.